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February 26, 2007

VIA HAND DELIVERY

Karen J. Nickerson
Commission Secretary
Delaware Public Service Commission
861 Silver Lake Boulevard
Cannon Building Suite 100
Dover, Delaware 19904

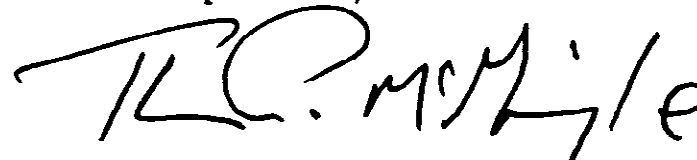
**Re: Bluewater Wind LLC's Motion Requesting the Public Service Commission
Establish a Formal Process for Bidders to Comment on and Question
Evaluation Reports by Delmarva Consultant and Independent Consultant**

Dear Ms. Nickerson:

In anticipation of the Public Service Commission's hearing scheduled for tomorrow, February 26, 2007, please find enclosed herein an original and ten (10) copies of the above-referenced Motion filed on behalf of Bluewater Wind, LLC.

Thank you for your consideration in this matter.

Respectfully submitted,



Thomas P. McGonigle

For WOLF, BLOCK, SCHORR and SOLIS-COHEN LLP

TPM/sc
Enclosures

WIL:65044.1/blu098-239434

**BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF DELAWARE**

IN THE MATTER OF THE INTEGRATED)
RESOURCE PLANNING FOR THE PROVISION)
OF STANDARD OFFER SUPPLY SERVICE BY)
DELMARVA POWER & LIGHT COMPANY)
UNDER 26 DEL. C. § 1007 (c) & (d): REVIEW)
AND APPROVAL OF THE REQUEST FOR)
PROPOSALS FOR THE CONSTRUCTION OF)
NEW GENERATION RESOURCES UNDER 26)
DEL. C. § 1007 (d))
(OPENED JULY 25, 2006).)

PSC DOCKET NO. 06-241

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**Motion Requesting the Public Service Commission Establish a Formal Process for Bidders
to Comment on and Question Evaluation Reports by Delmarva Consultant and
Independent Consultant.**

1. This firm represents Bluewater Wind LLC and its special purpose entity, Bluewater Wind Delaware, LLC ("Bluewater") in connection with Public Service Commission ("PSC") Docket 06-241, the Review and Approval of the Request for Proposals for the Construction of New Generation Resources under 26 Del. C. § 1007(d).
2. This motion seeks a process by which bidders and other interested parties may provide meaningful comment and input with regard to the recently released evaluations from the consultant retained by Delmarva Power & Light Company (the "Delmarva Evaluation" or "Delmarva Consultant") and the independent consultant ("IC") retained by the State Agencies (the "IC Evaluation"). Specifically, this motion seeks a process by which the bidders and interested parties may seek and receive clarification from both the Delmarva Consultant and the

IC, followed by a full opportunity to provide written comments and testimony before the PSC concerning these important evaluations.¹

3. The Delmarva Evaluation was released less than a week ago, on February 21, 2007, and is over 80 pages long and is full of very technical information requiring review by a number of specialized disciplines. Moreover, the Delmarva Evaluation contains various assumptions, some of which contain very little explanation, and these assumptions significantly impact the conclusions therein.

4. The IC Evaluation is 57 pages long, plus exhibits, and also includes complicated analysis and conclusions that require review by people with specialized expertise. Further, the IC Evaluation is also based on critical assumptions that require significant study and review.

5. By way of example in terms of an assumption and its impact, the scoring methodology for price bears close scrutiny on both evaluations. Bluewater's total Delmarva Evaluation score was 50.4, which was 16.3 points below Conectiv. Bluewater's total IC Evaluation score was 57 points, a mere 11.9 points below Conectiv, which received the highest score. However, a close review of the scoring method adopted by both the Delmarva Consultant and the IC as it relates to price, reveals a significant anomaly that, when corrected, significantly closes that gap between Conectiv and Bluewater.²

¹ While Bluewater recognizes that the PSC unanimously concluded, over Delmarva's objection, that the State Agencies will not be married "to the results of a straight addition of the numbers" and will have the "flexibility to go outside the bare numbers," the purpose of this motion is to ensure the efficacy of the starting point (i.e. the evaluations) for review by the State Agencies. (PSC Order 7066 at 52).

² Bluewater believes that, should this motion be granted, it will be able to make convincing arguments for additional points for its bid from other point categories, as well as being able to raise important questions about other points given to Conectiv.

6. Specifically, with respect to the Delmarva Evaluation, Conectiv's price was calculated at \$86.63 per MW hour, Bluewater's price was calculated at \$99.45 and NRG's price was calculated at \$117.07 with CCS. Price is already a significant component of the total allowable points, equaling 33 of 100 possible total points. By definition, price differences are a matter of degree and any point allotment when evaluating price should be done on a full scale and include all bids. In so doing, a proper full scale calculation would have resulted in Conectiv receiving 33 points, Bluewater receiving 19.1 points and NRG receiving 11.1 points.³

7. Instead, the Delmarva Consultant injected a range based on 0 - \$15 per MW hour and allocated points accordingly. This almost equates to a "winner take all" method of allocating points. Indeed, the Delmarva Consultant awarded Conectiv 33 points, while only awarding Bluewater 4.8 points and NRG 0 points. Simply put, a 28.2 point differential between Bluewater and Conectiv on price is not justified when the actual price differential is only \$12.82 per MW hour or 1.282 cents per kilowatt hour.⁴ Attached hereto as Exhibit A is a chart that clearly shows the distortion created by Delmarva Evaluation methodology.

³ By way of further explanation, the true range between the highest and lowest priced proposal according to Delmarva is \$30.44, with the price difference between Conectiv and Bluewater being \$12.82 per MW hour. Thus, the percentage of the price difference between Conectiv and Bluewater, based on the true price range between the highest and lowest bids, i.e. 0 - \$30.44, shows, on a linear scale, where Bluewater properly falls on that range. Bluewater and NRG should then be afforded that percentage of the total allowable points, based on where they fall on that linear scale. Doing the math as it relates to Bluewater, that means \$12.82 divided by \$30.44 equals 42.16%, which means 57.84% (100% - 42.16%) of the range is to the right of where Bluewater's price falls on the linear scale. Thus, Bluewater should be awarded 57.84% of the 33 total points or 19.1 points.

⁴ Importantly, the RFP does not provide for this type of methodology and actually calls for the full scale range discussed above. Indeed, the RFP states in pertinent part: "The price evaluation shall award 33 of the 60 available points in this category to the proposal with the lowest expected cost to Delmarva's SOS customers ... *All other proposals shall be scaled to the lowest cost proposal.*" (RFP, Section 2.5 at page 22, emphasis added). Importantly, no such artificial cap or range was imposed with respect to environmental impact – criteria

8. The results are similar if the range is corrected in the IC Evaluation.⁵ Specifically, with respect to the IC Evaluation, Conectiv's price per MW hour was calculated at \$87.48, Bluewater's price was calculated at \$98.21 and NRG's highest price was calculated at \$109.⁶ Again, price is already the most significant component of the total allowable points, equaling 33 of 100 possible total points. By definition, price differences are a matter of degree and any point allotment when evaluating price should be done on a full scale, with the lowest price getting 33 points and the highest price receiving zero points. In this case, the difference between the highest priced proposal and the lowest priced proposal is \$21 per MW hour, so the range should have been between 0 and \$21, with points allocated accordingly. In so doing, such a full scale calculation, based on the full price difference between the highest and lowest price bids, would have resulted in Conectiv receiving 33 points, Bluewater receiving 16.9 points and NRG receiving 12.2 points.

9. In contrast, the IC also imposed a range similar to that of the Delmarva Consultant and allocated points accordingly.⁷ Again, this method has the effect of putting Bluewater on the very

pollutants, where arguably it makes more sense. There, a total of 8 points was allotted, with Bluewater receiving 8 points with no emissions and NRG and Conectiv receiving 2.8 and 4.9 points respectively, despite hundreds of thousands of pounds of annual emissions into our environment. (Delmarva Evaluation at 41-42).

⁵ While the IC did not specifically define its range, it appears that they adopted a range similar to the Delmarva Consultant.

⁶ The \$109 price is estimated based on the IC statement that the NRG CCS alternative was about 8% higher than the NRG non-CCS bid of 101.37.

⁷ To be fair, it appears that the compressed nature of this process forced the IC to rely on and defer to Delmarva (and its consultant), in large part, with respect to the methodology for scoring price. (IC Evaluation at 4). Indeed, the IC was not able to do the desired "test bidding" prior to receipt of bids - - which is something both the IC and the PSC believed important to protect the integrity of the process. (IC Evaluation at 4, PSC Order 7066 at 74). In fact, the PSC ordered

low end of the point range, as compared to Conectiv and practically knocks NRG off the range completely. Indeed, this arbitrary scale resulted in Conectiv receiving 33 points, while only awarding Bluewater 8.3 points and NRG 1.1 points. Simply put, a 24.7 point differential between Bluewater and Conectiv on price is not justified when the actual price differential is only \$10.73 per MW hour or 1.073 cents per kilowatt hour. Attached hereto as Exhibit B is a chart that clearly shows the distortion created by IC Evaluation methodology.

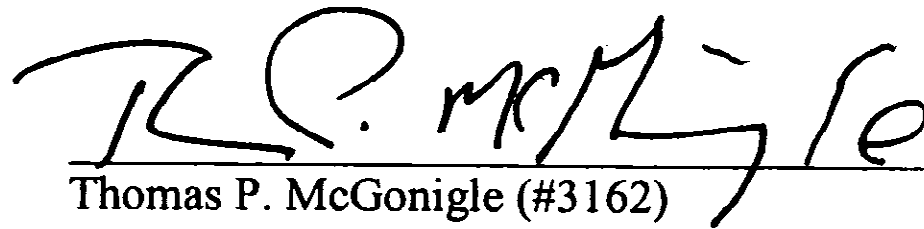
10. The methodology imposed in both evaluations as it relates to price results in a gross distortion of the evaluation system and is otherwise fundamentally flawed, as it serves to greatly enhance the importance of price, which is already the highest point category.

11. As the example above reveals, the conclusions drawn from these evaluations must be closely examined and reviewed. As such, a process by which the bidders and interested parties can pose questions to both the Delmarva Consultant and the IC and receive timely responses, followed by and combined with written comments and testimony before the PSC, will better allow the PSC to evaluate the efficacy of these evaluations.

"test-bidding" be done but Delmarva and its consultant, after the issuance of the RFP, notified the IC that there was "insufficient time to conduct any form of a test bid." (Id.).

Conclusion

For the reasons stated herein, Bluewater respectfully requests that the PSC establish a process by which the bidders and interested parties may seek and receive clarification from both the Delmarva Consultant and the IC, followed by a full opportunity to provide written comments and testimony before the PSC concerning these important evaluations.

A handwritten signature in black ink, appearing to read "T.P. McGonigle", is written over a horizontal line.

Thomas P. McGonigle (#3162)

Jennifer Barber Ranji (#3482)

Wolf, Block, Schorr and Solis-Cohen LLP

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Wilmington, Delaware 19801

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EXHIBIT A

POINTS ALLOCATED FOR PRICE

RED LINE: DELMARVA/ICF DISTORTED SCORING*

GREEN LINE: CORRECTED SCORING

Distorted scoring due to \$15 range of bidders' prices
\$15 range

33 pts	4.8 pts	0 pts	0 pts
Conectiv \$86.63	BWW \$99.45	NRG 20 yr base \$106.87	NRG CCS \$117.07
33 pts	19.1 pts	11.1 pts	0 pts

Corrected scoring with full range of bids

* Similar result in Independent Consultant study
All prices in \$/MWh

CORRECTED SCORING:

19.1 POINTS INSTEAD OF 4.8 POINTS TO BLUEWATER WIND



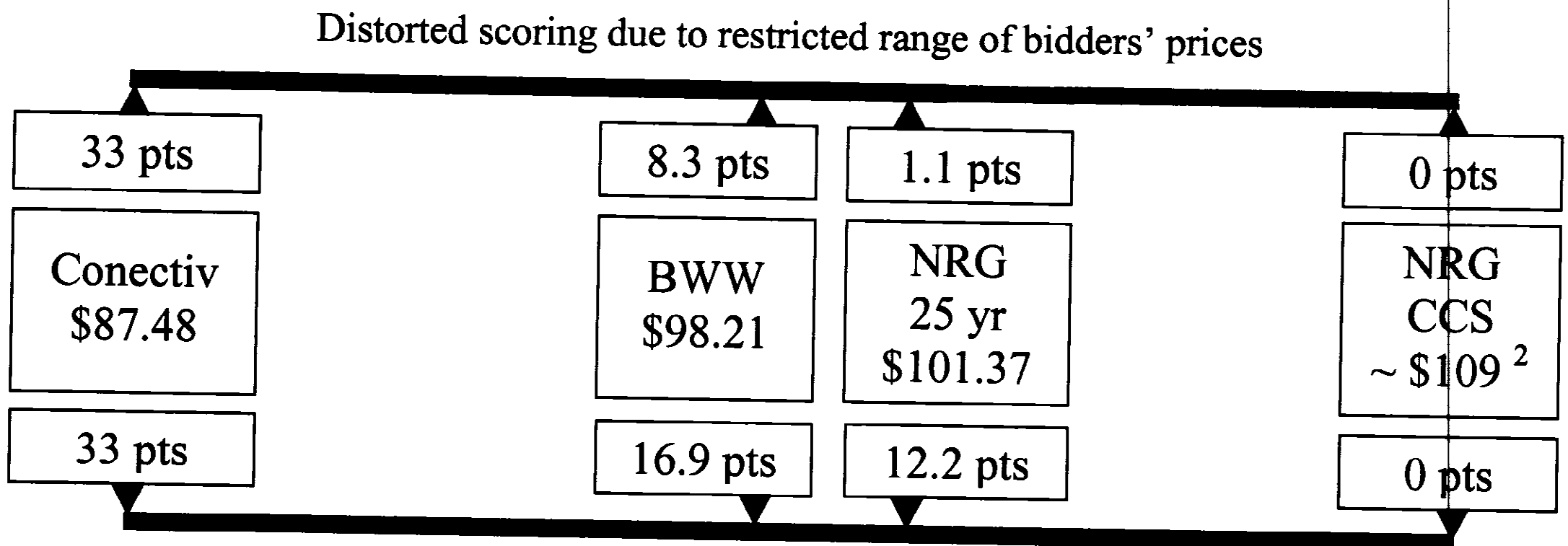
www.bluewaterwind.com

EXHIBIT B

POINTS ALLOCATED FOR PRICE

RED LINE: INDEPENDENT CONSULTANT DISTORTED SCORING ¹

GREEN LINE: CORRECTED SCORING



¹ Similar result in Delmarva/ICF study

² "Resulting cost of the CCS alternative was about 8% higher than the non-CCS bid" (Independent Consultant report, page 37).
All prices in \$/MWh

CORRECTED SCORING:

16.9 POINTS INSTEAD OF 8.3 POINTS TO BLUEWATER WIND



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